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Moving from commitments to results: transforming public institutions to facilitate inclusive policy formulation and integration in the implementation and monitoring of the Sustainable Development Goals: strengthening the confidence of citizens in the effectiveness, validity and integrity of public administration through enhanced, targeted efforts to use good governance to prevent, expose and deal with corruption

Enhancing efforts to use good governance to prevent, expose and deal with corruption: two essential measures

Note by the Secretariat

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Summary

In the present paper, corruption is described as a worldwide phenomenon that affects all countries, as one of the most significant impediments to the achievement of the Sustainable Development Goals and as undermining democracy, respect for the rule of law, economic progress and the trust of citizens in public institutions. A number of tax havens and offshore financial companies, as well as onshore banks, are complicit in hiding stolen public assets and are adept at employing ever more sophisticated methods for doing so. Globalization, enabled by a technical and structural apparatus that has intensified worldwide interconnection, has amplified the challenge.

Two specific measures to combat corruption are set out in the present paper. The first measure is the establishment of national registries of beneficial ownership of corporations and of monetary and physical assets held by corporate entities. Such registries should be fully transparent and open to public scrutiny. Importantly, there should also be international cooperation in information-sharing to assist in efforts to track stolen public assets and return them to their country of origin.

The second measure is the institutionalization and regulation of lobbying. Whereas lobbying is a positive feature of public consultation and a legitimate channel for dialogue between State and non-State actors, preferential access to public officials by powerful interests can result in undue influence and undermine the pursuit of the public interest, including through illicit practices.

I. Introduction

1. Corruption is a worldwide phenomenon that affects all countries and all peoples. The subject of corruption is not new to the Committee of Experts on Public Administration. At its fourteenth session, held in April 2015, the Committee emphasized that corruption might be one of the most significant impediments to the achievement of the Sustainable Development Goals and that it undermined democracy, respect for the rule of law, economic progress and the trust of citizens in public institutions. The Committee stressed the need to accelerate the adoption of measures to prevent corruption in the public sector and end impunity for corrupt practices, through measures that strengthen transparency, promote collaboration among parliamentarians, public administration and civil society and ensure the implementation of and respect for ethical standards (see E/2015/44, chap. III.C, sect. 3).

2. It will be impossible to attain the confidence of citizens, foster the integrity of civil servants and organize an apparatus of good governance aimed at disclosing and fighting corruption without addressing, in particular, certain features of transnational enterprise that allow corrupt practices to thrive. Even with the high level of awareness of corruption in many countries and the general consensus on the need to stem the flow of illicit funds, as a matter of priority, tax havens and offshore financial companies, as well as onshore banks, continue to be complicit in hiding stolen public assets and are adept at employing ever more sophisticated methods for doing so. Given the international nature of financial flows, continued cooperation among all countries concerned is essential, including through appropriate rulings and regulatory action.

3. A significant increase in the transparency of both monetary and physical assets, including real property, jewellery, artwork and leisure crafts, would constitute a major step forward. Specifically, public registries of corporate holdings should be established at the national level, ensuring global coordination on reporting and the exchange of information. Under this scenario, the United Nations would be responsible for international reporting of assets, facilitating asset recovery and returning such assets to legitimate owners, in particular to countries of origin. The efforts in this regard would be funded by administrative fees for services provided. The establishment of public registries could be expected to have an important deterrent effect with regard to the use of corporate entities for the transfer of the proceeds of corruption and other illicit purposes, owing to the significantly higher risk of exposure.

4. Another measure that should be given particular attention concerns legislative politics and, specifically, the need for the adoption, in a broad range of countries, of regulations on lobbying activity. At its previous session, the Committee noted that it was not possible to gain the confidence of citizens, foster the integrity of civil servants and organize an apparatus of good governance aiming at fighting corruption and the influence of private interests over public interests without having regulated lobbying activities. However, lobbying activities remain largely unregulated in many countries.

5. These two basic and long overdue measures are supported by international entities, including through the Open Government Partnership, which could serve as a platform for promoting the implementation of both actions.

II. Corruption as a global phenomenon

6. Good governance calls for the inclusion of trust in the discussion. Trust in government can usually be understood in two ways. Trust has a political dimension in which citizens assess government, its institutions, policy processes and leaders with regard to their efficiency and honesty. Trust is the main indicator of how people feel about politics and politicians. Trust also has a social dimension related to the attitudes of citizens towards one another, as members of a community. Social trust is inseparable from political trust. Building social and political trust is a matter of enhancing well-being by implementing healthy and fair economic policies, and it is crucial for good and efficient governance (see E/C.16/2015/2).

7. It is important to emphasize that trust in government is based on an understanding on the part of citizens that sustainable development is grounded in inclusion, the sharing of responsibilities and the reinforcement of values, principles and practices that assure peace, safety and stability as the foundation of economic and social gain. Nevertheless, trust can dissipate in moments of economic, political and social crisis. Consequently, trust is directly or indirectly linked to actions taken by leaders during or following a crisis, especially in response to crises of an economic nature. Moreover, widespread corruption has become a catalyst to the erosion of trust in government, in particular in the developing world.

8. Fighting corruption is indispensable in the pursuit of sustainable development. It is thus inevitable and essential to recall that any government that intends to build or reinforce trust in the pursuit of sustainable development must first work to eradicate corruption. Efforts to eliminate corruption must be made a priority.

9. Corruption is a worldwide phenomenon that greatly affects morals, ethics and economic activity at all levels of society. According to the United Nations Office on Drugs and Crime (UNODC), corruption has evolved into a very sophisticated phenomenon. A local incident gains an international dimension as money moves across borders with a mere click of a button. Companies with an office in one country can be a cover for illicit operations around the globe, and individuals can camouflage assets under many complex layers.[1]

10. The consequences of corruption include direct harm to the population that, rather than protecting society, results in a degraded socioeconomic environment. Fiscal controls contaminated by corruption facilitate tax evasion with losses to the government budget. In an environment dominated by corrupt practices, the government can be influenced to prioritize investing in infrastructure projects with few benefits to the population over investing in education and health. Corruption distorts competition and therefore undermines the quality and affordability of goods and services. It inhibits foreign direct investment, owing to the high cost of maintaining companies in business environments characterized by bribery. In addition, it erodes one of the main ethical principles of government: that public officials should act in the pursuit of public rather than private interests.

[1] United Nations Office on Drugs and Crime (UNODC), "Reporting on corruption: a resource tool for governments and journalists" (New York, 2013). Available from www.unodc.org/documents/corruption/Publications/2013/Resource_Tool_for_Governments_and_Journalists_COSP5_ebook.pdf.

11. Significantly, corruption is not directly related to the colonial inheritance of any country and has no close connection with level of development. For example, Australia, which was a British colony until the early 1900s, is no more prone to corruption than other more, or less, developed nations. In Japan, one of most developed countries in the world, there have been a number of resignations at the ministerial level, following corruption revelations. Many initiatives and efforts to reinforce the integrity and good governance of public administration have been undertaken with the objective of suppressing this problem, which harms the economy, ethics and morals of society.

12. The most adequate way to address the subject is by understanding that corruption is usually found in connection with close relationships between public and private actors. The most blatant forms involve bribery of public officials who seek, or who are offered, payments and other benefits from private actors in exchange for preferential treatment by a public agency. This relationship can be termed a "calculation crime", given that those who are involved see a low risk of penalty combined with the possibility of great reward.[2]

III. Role of the private sector in global corruption

13. With the advent of globalization, enabled by a technical and structural apparatus that has intensified worldwide interconnection, an increasing number of companies have expanded into transnational activities that extend beyond national boundaries. It is estimated that there are some 82,000 transnational corporations in existence with 810,000 subsidiaries spread around the world. These corporations are responsible for more than a quarter of gross world product, more than one third of exports and, in some cases, revenues that far exceed the gross domestic product of the countries in which they operate.[3] This situation has rendered the services model of the State vulnerable, as a result of the huge appetite for profit on the part of some companies.

14. It is therefore necessary to create an international regime to control corruption, comprising multilateral agreements to exchange experiences and harmonize legislation.[4] The case known as "Operation Car Wash", in Brazil, is an example of one such experience, in which huge amounts of money that had been allegedly deviated from the State-controlled oil company Petrobras to Swiss bank accounts were uncovered as a result of information exchanged between the offices of the federal prosecutors of Brazil and Switzerland.

15. Another successful case involves the adoption by the United States of America of the Foreign Corrupt Practices Act, which allows the Government of the United

[2] Robert Klitgaard, Ronald Maclean-Abaroa and H. Lindsey Parris, *Corrupt Cities: A Practical Guide to Cure and Prevention* (Oakland, California, Institute for Contemporary Studies, 2000). Available from http://documents.worldbank.org/curated/en/2000/01/693273/corrupt-cities-practical-guide-cure-prevention.

[3] *World Investment Report 2009: Transnational Corporations, Agricultural Production and Development* (United Nations publication, Sales No. E.09.II.D.15). Available from http://unctad.org/en/docs/wir2009_en.pdf.

[4] Patrick Glynn, Stephen J. Kobrin and Moisés Naím, "The globalization of corruption", in *Corruption and the Global Economy*, Kimberly Ann Elliott, ed. (Washington, D.C., Institute of International Economics, 1997).

States to punish companies located in the United States or doing business there, regardless of the country of origin, as well as foreign civil servants, if they are found to be engaged in corrupt practices.[5] The law authorizes civil penalties, fines of up to 250,000 dollars and other forms of redress, including government sanctions. In addition, a convicted company or person can be prohibited from conducting business with the Government of the United States, prevented from obtaining export licences and suspended from the securities market by the United States Securities and Exchange Commission. Criminal penalties can also be imposed in the form of personal fines of up to 100,000 dollars and prison terms of up to five years, in addition to, for companies, fines of up to 2 million dollars or double the amount illegally obtained.

16. In 2015, on the basis of this law, the United States Department of Justice, together with the Securities and Exchange Commission, arrested a number of individuals from the world of football who were connected with businesses listed on the New York Stock Exchange. Leading members of the International Federation of Association Football were also indicted, including the former president of the Brazilian Football Confederation who was extradited to the United States, placed under house arrest and subject to the payment of a very large fine.

17. A number of related treaties and agreements have been negotiated under the auspices of the United Nations, the Organization of American States and the Organization for Economic Cooperation and Development (OECD). The Foreign Corrupt Practices Act has also influenced several initiatives of the European Union. However, much remains to be done. Many steps need to be taken to reach a harmonized international regulatory regime to fight corruption, which protects national sovereignty and privacy. In addition, an international regulatory regime should be consistent with commitments to exchange information and should extend to tax havens.[6]

18. Approximately 7.6 trillion dollars are kept in tax havens, mostly in the British Virgin Islands, Luxembourg and Switzerland. The yearly losses to Governments from the non-collection of taxes on assets held in such accounts amount to some 200 billion dollars.[7] On Jersey, one of the Channel Islands, there are some 100,000 inhabitants and 33,000 financial companies. In the Cayman Islands, one building alone, Ugland House, is home to more than 18,000 companies. Practices of this type are socially unsupportable and seriously undermine respect for democracy.

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[5] Martin T. Biegelman and Daniel R. Biegelman, *Foreign Corrupt Practices Act: Compliance Guidebook — Protecting your Organization from Bribery and Corruption* (Hoboken, New Jersey, John Wiley and Sons, 2010).

[6] Luciano Vaz Ferreira and Fabio Costa Morosini, "The implementation of international anti-corruption law in business: legal control of corruption directed to transnational corporations", in *Austral: The Brazilian Journal of Strategy and International Relations — Strategy and International Security*, vol. 2, No. 3, Jan/Jun 2013 (International Strategic Studies Doctoral Programme of the Faculty of Economics of the Universidade Federal do Rio Grande do Sul, 2013). Available from http://seer.ufrgs.br/index.php/austral/article/view/35615.

[7] Gabriel Zucman, *The Hidden Wealth of Nations: The Scourge of Tax Havens* (University of Chicago Press, 2015).

IV. Transparency as a principle of good governance and the foundation of efforts to prevent corruption

19. By article 13 of the United Nations Convention against Corruption, each State Party commits to assuring the effective participation of society in the fight against corruption. It states that each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption.

20. The Convention also calls for strengthening participation by such measures as: (a) enhancing the transparency of and promoting the contribution of the public to decision-making processes; (b) ensuring that the public has effective access to information; (c) undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula; (d) respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary: (i) for respect of the rights or reputations of others; (ii) for the protection of national security or *order public* or of public health or morals.

21. This is a subject for discussion at the fifteenth session of the Committee, which intends to reflect on transforming public institutions to facilitate inclusive policy formulation and integration in the implementation of and follow-up to the targets of the Sustainable Development Goals, including in connection with the sub-item on its agenda on strengthening the confidence of citizens in the effectiveness, validity and integrity of public administration through enhanced, targeted efforts to use good governance to prevent, expose and deal with corruption.

22. In calling for exposure of corruption as an element of prevention, the Convention also calls on each State Party to consider establishing measures and systems to facilitate the reporting by public officials of acts of corruption to the appropriate authorities. In addition, it sets out that public access to those agencies must be facilitated when there is an interest in reporting, including anonymously, facts that may lead to the detection of offences established under the Convention.

23. Both Governments and societies have achieved great results with regard to the promotion of transparency and the participation of citizens in the follow-up actions with regard to public policies. The Internet, new media and communication platforms have offered substantial possibilities in this respect.

24. In connection with reporting on corruption, the Convention encourages journalists and Governments to work with active transparency as a way of preventing corruption: This is precisely why there is a greater need for strong investigative reporting. The Convention is an acknowledgement not only of the scope of public and private corruption, but also of the global resolve to address it through preventative measures, including transparency and active public involvement, as well as through criminalization, law enforcement and international cooperation. The Convention reinforces the belief that States are best served when

more information of public interest is made available to more people. It calls upon States Parties to allow and encourage free and open dissemination of information and discourse, with the understanding that anti-corruption efforts flourish with the participation of an informed citizenry.

25. A crucial matter for investigative journalists, when checking sources and confirming the accuracy of information received, is the question of when a story is ready to be published. Generally, journalists should publish only when they have good faith and reasonable belief in the report's accuracy. In some countries, reasonableness is elevated to a legal obligation, such as in the context of a defamation action.[3]

26. The power to decide what and when a subject is discussed in the context of social networks is now also in the hands of common citizens, regardless of their economic or political power. It is within this new context that the State must work to promote transparency in public affairs and elicit the trust of citizens. The participation of citizens in public affairs is not only essential in the fight against corruption; it is a crucial means of promoting transparency, which is a pillar of democracy.

27. Social participation, achieved through indirect democracy, is thus an instrument that provides citizens with enhanced freedom to participate in the political affairs of the State. Social participation also offers opportunities to contribute to legislative acts, granting citizens the attributes of citizenship and putting them in *status activae civitae* (active civic state), comprising the prerogatives, attributes, faculties and power to intervene in the government of the country. The intervention may be direct or indirect and vary in scope according to the intensity of the assertion of civic rights. The *jus civitatis* (civic rights) related to public power authorize the active citizen to participate in the formation or accomplishment of national authority.[8]

28. It should be stressed that transparency both strengthens government and, at the same time, empowers society, which becomes an active party in the design of more efficient and effective public policies. It is not possible to discuss trust in government in an environment of secrecy and confidentiality. Among actions that could be taken to improve governance, transparency should thus be considered a target and an instrument of good management.

29. There are many examples around the world of the positive effect of investment in transparency on administrative practices, as well as on society as a whole, which is the greatest beneficiary. Access to information can induce public managers to act responsibly and help an informed citizenry cooperate in the oversight of public authorities, including by verifying that public resources are properly used.

30. As the example of Brazil demonstrates, efforts to promote transparency should be continuous, gradually reaching different areas of government administration, in order to foster greater civic engagement and effective social participation. Since 2003, when a movement to open access to information and enhance the transparency of government action began within the Government of Brazil, efforts to promote transparency have grown substantially and have become established practice. A

[8] José Antônio Pimenta Bueno, *Direito público brasileiro e análise da Constituição do Império* (Rio de Janeiro, Brazil, Ministério da Justiça e Negócios Interiores, Serviço de Documentação, 1958).

transparency website of the federal Government was released to critical acclaim early on in the movement and has inspired the adoption of similar initiatives by public authorities in other areas and at other levels of government. Building on this achievement, Complementary Law No. 131 was adopted in 2009, obliging the federal Government, states, the federal district and cities to disclose detailed information about budgetary and financial transactions, in real time and on the Internet. Federal bodies are now required to disclose budgetary information. Failure to comply can result in the withholding of resource transfers from the federal Government.[9]

31. The Open Government Partnership, which launched in 2011, is another important transparency initiative that has 69 participating countries. As members, participating countries are required to endorse a declaration of principles and submit national action plans that aim at adopting specific steps to strengthen the transparency of information and government acts, fight corruption, foster the participation of citizens, improve the management of public resources and enhance integrity in the public and private sectors, among other objectives. Such commitments are categorized according to one of five overarching challenges, namely, improving public services, increasing public integrity, more effectively managing public resources, creating safer communities and increasing corporate accountability. Furthermore, these commitments must promote the open government principles of transparency, the participation of citizens, accountability and technology and innovation.

32. Overall, the member countries of the Open Government Partnership have taken on some 1,000 commitments to make their Governments more transparent. Brazil has submitted two action plans. In its second action plan, which was jointly developed by the federal Government of Brazil and various sectors of civil society, 52 commitments were made by 19 federal agencies. As at March 2015, 30 commitments had been implemented, with 22 still in operation.[10]

33. With respect to the prevention of corruption, the Compendium of International Legal Instruments on Corruption of UNODC is a notable follow-up to the Convention. According to the Compendium, "transparency and accountability in matters of public finance must also be promoted, and specific requirements are established [by the Convention] for the prevention of corruption in particularly critical areas of the public sector such as the judiciary and public procurement".[11] This type of initiative directly contributes to actions to fight corruption, with greater transparency and scrutiny of public expenses. Moreover, transparency brings citizens closer to the government, in particular by enabling society to participate in public policymaking, thus rendering public policies more legitimate, effective and responsive to the needs of citizens.

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[9] Organization for Economic Cooperation and Development (OECD), *OECD Integrity Review of Brazil: Managing Risks for a Cleaner Public Service* (Paris, OECD Publishing, 2012).

[10] See Open Government Partnership, "Brazilian Action Plan"; "Brazil's second Open Government Partnership action plan". Available from www.opengovpartnership.org/country/brazil/action-plan.

[11] UNODC, "Compendium of international legal instruments on corruption", 2nd ed. (New York, 2013). Available from www.unodc.org/documents/corruption/publications_compendium_e.pdf.

Implementation of public registries of information on the property of companies

34. At the global level, the Open Government Partnership has also provided many positive results in other countries that participate in the initiative. It is important to emphasize that the action plans of each country are prepared with the participation of representatives of civil society, which further legitimizes the plan.

35. One remarkable result of the efforts relating to the Open Government Partnership was the establishment of a public register of beneficial ownership by the United Kingdom of Great Britain and Northern Ireland in October 2013, announced during the yearly meeting of the Partnership, held in London. Having a public register of beneficiaries of companies registered in the country hinders money-laundering and fights corruption by reducing options for hiding illegal transactions through façade companies. The register is an example for citizens worldwide of means to press governments to render accounts. It helps to disclose such cases as, for example, those in which civil servants are the beneficial owners of assets located in the United Kingdom. The United Kingdom obtained the approval, through the required legislation, for the effective establishment of the register, in March 2015. As at January 2016, registered companies must also identify all persons with significant control, defined as shareholders who control 25 per cent or more of voting rights.[12]

36. Under this initiative, information obtained through the registration of persons with significant control is expected to be made freely available online. Companies based in the United Kingdom will need to provide this information to Companies House, the government agency responsible for business registration, for inclusion in the public register, beginning April 2016. Non-compliance may be considered a criminal offence and result in strong penalties.

37. Other European countries, such as Denmark and Norway, have adopted similar reporting requirements relating to the registration of corporate assets. According to the Tax Justice Network, a non-governmental organization based in the United Kingdom, the parliament of Norway approved a text on the public registry of ownership, which stresses the importance of effective public access to information about beneficial ownership. The text also stresses that "achieving the greatest possible transparency in these issues will help to protect the economic system that has been built up in Norway".[13]

38. Taking steps towards enhanced reporting is not easy and does not occur in a uniform way owing to pressures exerted by various interest groups. Governments that stand up to opposition and implement a requirement to report corporate assets would be seen, however, as having taken a firm stand in the fight against corruption, specifically with regard to money-laundering and tax evasion. It is important to emphasize that initiatives such as the creation of public registries of corporate assets

[12] Stephen Pollard, Katrina Carroll and Christopher David, "Wilmer Hale discusses central register of beneficial ownership to be introduced in the United Kingdom", The Columbia Law School Blue Sky Blog, 5 May 2015. Available from http://clsbluesky.law.columbia.edu/2015/05/05/wilmerhale-discusses-central-register-of-beneficial-ownership-to-be-introduced-in-the-uk/.

[13] Sigrid Klæboe Jacobsen, "Norwegian Parliament votes for public registry of ownership", Tax Justice Network, 5 June 2015. Available from www.taxjustice.net/2015/06/05/norwegian-parliament-votes-for-public-registry-of-ownership/.

must be accompanied by control mechanisms that ensure the accuracy of data and the application of sanctions as provided by law, as well as that due follow-up is undertaken. Furthermore, wide and free access to registry data by citizens must be guaranteed.

39. Recognized worldwide as the most efficient instrument to prevent illegal practices by anonymous companies, public registries of information about the property of companies should be implemented by all countries as a clear indication of their commitment to fostering transparency and fighting corruption. The European Parliament already works this way, having approved, in May 2015, a guideline that aims at obliging all member States to adopt central registries with information about the property of companies. The new anti-money-laundering rule is intended to intensify the fight against tax crimes and the funding of terrorism. With this comprehensive step, it will be easier to track the transfer of funds, although one criticism of the proposal is that registration information would be restricted to those with a "legitimate interest" and not made openly available to the public.

40. What all these initiatives have in common is the fostering of access to information produced by the State, from policy formulation to its implementation. It is important to have such guidelines, not least because of the asymmetry of the relationship between the government and citizens who may lack awareness of their rights and understanding of how the government works. Mutual suspicion and mistrust can be mitigated through civic education, which in turn has the additional benefit of introducing young people to the possibility of a career in the public sector or engagement in political activity. Countries should consider whether a law on freedom of information would help to clarify what may or may not be available, as well as the means and procedures for gaining access to information. Countries should publish their policies on access to information to guarantee the right of access for all to official documents held by public authorities, upon request and without discrimination.[14]

V. Regulation of lobbying

41. In the United States, and elsewhere, there appears to be a growing influence of lobbyists in public policymaking. In the Oxford English Dictionary, the word "lobby", which describes a large entrance hall or apartment open to the public and chiefly used for interviews between members and persons not belonging to the House, in practice corresponds to the activities of people or organized interest groups with the objective of influencing the decisions of the public sector, especially with regard to the legislative processes of parliament. In some instances, the word "lobby" has taken on a negative connotation and become associated with illicit and corrupt activities, thus undermining the importance and legitimacy of having a permanent channel for dialogue between State and non-State actors, participation and the right to free association, which are among the pillars of democracy.

[14] UNODC, "Technical guide to the United Nations Convention against Corruption" (New York, 2009). Available from www.unodc.org/documents/treaties/UNCAC/Publications/TechnicalGuide/09-84395_Ebook.pdf.

42. At the European Commission, rules on lobbying are reflected in the Code of Conduct for Interest Representatives. The Code contains only seven rules and refers to a handful of principles, namely, openness, transparency, honesty, integrity and impartiality. Interactions between interest representatives and Commission staff are subject to the Staff Regulations, the Code of Commissaries and the Code of Good Administrative Behaviour.

43. In the Brazilian parliament, the subject has been a matter of concern for a long time and forms the basis of law project No. 1202 of 2007, which affirms the activity as necessary to democracy. The intention of law project No. 1202 is to enable lobbying, in a transparent manner, such that pressure and interest groups can work in an organized way and that, with lower costs, all sectors of society can use professional structures to take their opinions and positions to members of Congress, to the benefit of the legislative process and its safety.[15]

44. A study of the actions of interest groups and the influence of money on ballot initiatives in the United States concluded that, although large sums are sometimes employed in political campaigns with the intention of influencing the outcome of such initiatives by direct vote, such tactics are usually unsuccessful. The study was based on an extensive examination of the activities of interest groups and on the financial reports of 168 legislative campaigns in eight states in the country. It was also found that ballot initiatives supported by economic interest groups were less likely to be approved than those supported by citizen groups.[16]

45. A 2004 report from the University of Campinas in Brazil found that a central feature of lobbying activities is the specialization of the actors involved. In addition to exerting pressure on the public sector, lobbyists aim at carrying out the following duties:

(a) Identifying problems and the objectives intended by the client;

(b) Understanding and assessing the current political milieu;

(c) Legislative monitoring or tracking;

(d) Analysis of legislative monitoring;

(e) Political monitoring;

(f) Creating an action strategy that consists of identifying how to solve the client's problem, submitting propositions, projects of law or amendments, delineating a communication strategy, scheduling hearings, taking decision makers to educational events or on visits to clients' facilities and submitting unbiased and trustworthy information, grounded on academic studies and technical opinions;

(g) Taking practical steps to seek out allies and opponents in order to convince them to contribute to accomplishing the intended purpose.[17]

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[15] Brasil, Câmara dos Deputados, *Projeto de Lei nº 1.202, de 2007*.

[16] Dolores Davies, "Well-heeled interest groups usually don't succeed in buying elections, says University of California, San Diego political scientist", University of California, San Diego News Centre, 4 October 1999. Available from http://library.ucsd.edu/dc/object/bb2561029f/_2.pdf.

[17] Andrea Cristina de Jesus Oliveira, "Lobby e representação de interesses: lobistas e seu impacto sobre a representação de interesses no Brasil", PhD dissertation, University of Campinas, 2004.

46. Institutionalized mechanisms for lobbying are crucial components of the regulatory process of public consultation, which contribute to good governance and, in turn, to oversight of the political process by society. In the regulation of lobbying activities, oversight instruments must be predominant. In some cases, lobbying carried out by civil society associations and organizations is considered the norm, perhaps even a necessity of government in the interaction between the State and society. For example, in the Scandinavian countries, a strong corporatist tradition sometimes provides interest groups with a substantial influence in political circles. In Denmark, relationships between government and other organizations are so close that society does not consider this type of cooperation to be a form of lobbying.[18]

47. In the United States, more than 3,700 registered entities work regularly as lobbyists, registering their representatives and rendering accounts of the resources they receive and to whom resources are destined, every six months. The use of presents, gifts, acts of kindness and favours that benefit members of Congress for illicit purposes is prohibited, and the equal treatment of pressure groups in decision-making processes is assured.[19] Given its importance, lobbying has attracted considerable interest elsewhere, especially among multilateral agencies, such as OECD, which in recent years has convened important discussions and published documents to promote understanding of the issue.

48. The intense work of interested people and organizations around the world notwithstanding, lobbying is seldom regulated by Governments in a systematic way. Only Germany, the United States and Canada have a regulatory framework in place related to lobbying. Even in the United States, where the Federal Regulation of Lobbying Act of 1946, the Lobbying Disclosure Act of 1995 and the Honest Leadership and Open Government Act of 2007 have helped to institutionalize the practice, procedures are not as efficient as they could be and not all lobbyists are registered.[19]

49. According to a report prepared for the Brazilian parliament in 2011, a consensus appears to exist on the necessity of regulating lobbying in Europe to protect public trust in institutions and in the democratic process, but there are few national laws that govern lobbying activity in the region.[20] European countries are simply choosing not to enact laws that regulate lobbying activity. Countries with specific rules to regulate the activities of lobbyists and interest groups are more often the exception than the rule.[21]

50. In some countries, such as Ireland, Italy, Luxembourg and the Netherlands, there are no laws or regulatory provisions governing lobbying activity, whereas in others the subject is minimally discussed in parliament. For example, there are no national laws in Austria governing the work of interest groups and lobbyists. Until recently, the relationship maintained by government authorities and members of

[18] Rene E. Rechtman and Jesper Larsent-Ledet, "Regulation of lobbyists in Scandinavia: a Danish perspective", *Parliamentary Affairs*, vol. 51, No. 4 (1998).

[19] Luigi Graziano, "O lobby e o interesse público", *Revista Brasileira de Ciências Sociais*, vol. 12, No. 35 (February 1997).

[20] Ricardo José Pereira Rodrigues, "A regulamentação do lobby em países selecionados da Europa", Biblioteca Digital da Câmara dos Deputados. Available from http://bd.camara.leg.br/bd/bitstream/handle/bdcamara/8547/regulamentacao_lobby_rodrigues.pdf?sequence=1.

[21] Margaret Mary Malone, "Regulation of lobbyists in developed countries: current rules and practices" (Dublin, Institute of Public Administration, 2004).

parliament with representatives of employers' organizations, labour unions and economic interest groups was considered the norm. Following the discovery of a number of irregularities involving these actors, in 2011, parliamentarians of the Government of Austria drafted a law setting out requirements for the official registration of lobbyists and political consultancy companies, as well as requirements for public transparency.

51. In Belgium, there are no laws or any other type of standard that governs lobbying, although the issue has been the subject of active discussion in parliament. There are no legal rules on lobbying in Denmark either. Instead, there are informal practices that acknowledge the existence of and provide legitimacy to interest groups carrying out lobbying activities with the Government of Denmark and the Danish parliament. According to the tradition and political culture of Denmark, lobbying is not considered as carrying a risk of unlawfulness.

52. Similarly, in Spain there are no parliamentary rules or national laws governing the activities of lobbyists and pressure groups, notwithstanding discussions about the issue in the Spanish parliament. Finland has not adopted laws or regulations concerning lobbying, instead, contact between interest groups, the Finnish parliament and the Government of Finland is informal. France does not have a specific law governing the work of lobbyists. There appears to be a strong interest in the matter in Parliament but no apparent movement to adopt legislation on lobbying.

VI. Conclusion

53. In our globalized world, the spread of corruption is a prominent feature of economic, social, political and cultural processes that deprive nations of vital income. Globalization characterized by illicit practices is, however, not inevitable. There is an alternate, affirmative view of globalization, wherein transparency is a fundamental antidote to corrupt practices that would otherwise dominate. The establishment of public registries of corporate assets and the regulation of lobbying activity are two essential measures for identifying the agents of corruption and tackling the problem at its source.

54. Those two steps and related actions, such as the identification and taxation of financial transactions, the criminalization of unlawful enrichment by civil servants and timely financial disclosure by civil servants on their appointment, whether through competitive examination or open hiring, are crucial to paving the way to good governance.